

REMARKS

Review and reconsideration on the merits are respectfully requested.

Initially, Applicants would appreciate an initialed copy of the Form PTO-1449 which was submitted as part of the Information Disclosure Statement filed April 16, 2004. An additional copy is attached hereto for convenience.

The typographical error on page 1 of the specification has been corrected.

Claims 69-83 stand rejected for obviousness-type double patenting over claims 1-80 (sic - 1-8) of U.S. Patent No. 6,761,897.

Without acquiescing in propriety in this rejection, submitted herewith is a Terminal Disclaimer which will render this rejection moot. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 69-71, 73, 74-78, 80 and 81 stand rejected under 35 U.S.C 102(b) as anticipated by or alternatively, under 35 U.S.C. 103(a) as obvious over Chan et al, U.S. Patent 5,464,623.

Applicants respectfully traverse this rejection for the following reasons:

Chan et al fail to anticipate or render obvious independent claim 69, because an insecticidal pellet consisting essentially of acephate and a polymeric processing aid, wherein the pellet has a moisture content up to about 0.5% by weight percent and is chemically stable, is not disclosed or suggested by Chan et al. Similarly, independent claim 76 is not anticipated or rendered obvious by Chan et al., because the reference fails to describe that the polymeric processing aid is present in amount up to about 3% by weight, and that the pellet has a moisture content of up to about 0.3% by weight and remains substantially free-flowing without caking or

compaction under drum storage conditions. Although Chan et al does mention drying of the pellets, clearly there is no recognition in this reference that controlling the production process so as to result in a pellet having a maximum of 0.5 weight % or, more preferably, 0.3 weight % will result in specific advantages. In particular, none of the cited locations in the Chan et al patent describe or even hint that the Chan et al patentee ever measured the actual moisture content in the disclosed compositions. In fact, during the extrusion process used in the '623 patent, 3-25% of a solvent is added to form a consistency of a damp sandy loam, which is then extruded. Given these high amounts of solvent in comparison to the amounts employed during the techniques described in the present specification to form the pellets of the present invention, one of ordinary skill in the art would understand that the moisture content of the pellets generated in Chan et al would be higher than Applicants' pellets.

Applicants have discovered by carefully controlling the moisture content of the pellets, the improved advantages of the present invention can be obtained. For example, rejected claim 76, as well its dependent claims, expressly recite that the pellets remain "substantially free-flowing without caking or compaction under drum storage conditions". Caking and compaction were a significant problem with prior art acephate pellets. Again, Applicants expressly rely on the supporting data in the present specification to rebut any inference of obviousness, including Example 8 at pages 49-54. Chan et al contains neither a recognition of the compaction problem that existed in the prior art, nor any suggestion of a solution to it - much less the solution disclosed in claimed in the low-moisture pellets of the present invention.

Moreover, each of the rejected claims calls for a polymeric processing aid in combination with the low-moisture content. The claimed polymeric processing aid, when interpreted in light of the underlying specification as required, is clearly distinguishable from the types of surfactant mentioned at column 4, lines 16-21 and the following paragraph of Chan et al. See, for example, the discussion in the paragraph bridging pages 9-10 of the present specification.

For the foregoing reasons, Applicants respectfully submit that none of the rejected claims is anticipated or rendered obvious by Chan et al. Accordingly, reconsideration and withdrawal of this rejection is respectfully rejected.

Claims 69-82 stand rejected under 35 U.S.C. 102(b) as anticipated by or, alternatively, under 35 U.S.C. 103(a) as obvious over Yamada et al, U.S. Patent 5,488,043. The grounds of rejection are set forth in the paragraph bridging pages 3-4 of the Office Action.

This rejection is respectfully traversed.

Yamada et al relate to an acephate formulation which contains a sodium salt of condensed phosphate and/or a synthetic silicic acid in which the surface silanol groups being alkyl-silylated may improve stability of acephate. While a "dry formulation" is discussed, Yamada et al fail to disclose or suggest acephate pellets as claimed wherein the moisture content has been controlled so as to be below about 0.5 weight % or 0.3 weight %, respectively. Thus, Yamada et al fail to disclose or appreciate the significant benefits and advantages obtained in accordance with the present invention - namely, improved storage life due to the claimed pellets' ability to avoid caking and compacting under drum storage conditions. Indeed, Yamada is

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directed to a broad variety of applications, where the compositions be in the form of dust, powders, granules, tablets, or pellets.

Still further, the kind of surfactants described in Yamada (see column 2, lines 47 et seq) do not disclose or suggest the type of polymeric processing aids contemplated in accordance with the present invention, as discussed above.

Still further, as the Examiner appears to recognize, Yamada et al fail to disclose or suggest the particular density recitations of certain of Applicant's claims, including claims 72, 79 and 82.

Accordingly, for the foregoing reasons, Applicants respectfully submit that none of claims 69-72 is anticipated or rendered obvious by Yamada et al. Reconsideration and withdrawal of this rejection is, therefore, respectfully requested.

Applicants note that upon entry of the Terminal Disclaimer, claim 83 should be in condition for allowance since it was not rejected based on the prior art references.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Mark Boland
Registration No. 32,197

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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